



7-Eleven, Inc.

TO: MEMBERS OF THE GENERAL LAW COMMITTEE

FROM: 7-ELEVEN, INC.

DATE: FEBRUARY 24, 2011

**PLEASE SUPPORT HOUSE BILL 6299: AN ACT CONCERNING CHAIN STORE
CIGARETTE DISTRIBUTORS**

The purpose of House Bill 6299 is to make a clarification to a 2005 law (Public Act 2005-96) relating to the classification of “chain stores” under the Connecticut cigarette distribution laws.

In 2005, the definition of a “chain store” distributor was amended under Public Act 05-96; and it appears to us from a review of the limited legislative history that the intended purpose of the 2005 change was to clarify that totally independent retail stores (non-chain stores) should not be classified as “chain store” distributors and should not be able to avail themselves of chain store pricing.

The 2005 change in the law has been interpreted to effectively prohibit 7-Eleven from being a chain store distributor. The chain store law was first enacted back in 1990; and at that time, companies such as 7-Eleven were included in the chain store law. This continued from 1990 – 2004 (the year before the 2005 Public Act, 2005-96).

Today, although 7-Eleven has franchise agreements with its retail stores, it has a somewhat unique arrangement with its stores in that 7-Eleven and the individual store operator share, through a gross profit sharing arrangement, in the economic success of each store. This arrangement is markedly different than a classic franchise relationship, and in this respect, is more akin to the relationship between a national company and its individual chain stores. Simply put, chain store companies rely on the amount of sales to the retail consumer, and in turn gross profits, as a measure of success. This is the arrangement that 7-Eleven has with the folks who operate our 51 Connecticut stores. In Connecticut, 7-Eleven has a vested interest in working with our store operators to ensure their success and to help them achieve maximum profitability. We believe that this similar type of arrangement also exists for most-if not all-other chain store companies.

As noted above, these types of chain store arrangements held by 7-Eleven and other chain stores is completely different from the situation in the more typical “franchise” arrangements where the company (the franchisor) obtains a predetermined fee from the store operator (the franchisee), and the company receives the predetermined fee regardless as to whether the operator does well with sales. The store operator is basically on his/her own – truly independent as to sales volumes. Again, with respect to 7-Eleven and our operators, we have a tight-knit relationship with our operators on many levels. Our franchise agreements: (1) require the sharing of gross

profits; (2) require the operators to purchase at least 85% of products and services only from 7-Eleven's approved vendors; and (3) require 7-Eleven to make commercially reasonable efforts to obtain the lowest cost for products and services to be purchased by our retail stores.

We respectfully contend that House Bill 6299 does not run afoul of the intent of the 2005 law. The 2005 law was clearly enacted to prevent companies who don't have a direct stake in the success of its store operators from being allowed to be chain store distributors.

As a practical matter, in the very competitive Connecticut marketplace, if 7-Eleven can once again obtain chain store pricing for the cigarettes that are sold in our retail stores, then our stores will be able compete fairly with our other chain store competitors. Note: A review of the Department of Revenue Services List of Licensed Distributors demonstrates that many, if not most of 7-Eleven's competitors seem to be licensed as chain store distributors.

House Bill 6299 amends the relevant statutory provisions to allow entities such as 7-Eleven who have gross profit sharing arrangements in their franchise agreements to be considered chain store distributors. We believe that this change will not "open up the floodgates" to somehow allow truly independent retail stores to avail themselves of chain store pricing.

We also believe that this proposal will have a no fiscal impact based upon the fact that when the chain store definition was changed back in 2005, the Fiscal Note attached to the bill concluded as such (we have attached a copy of the 2005 Fiscal Note for your review). In addition, it's our understanding that chain store pricing at the distribution level does not affect the amount of taxes that are collected when a pack of cigarettes is sold at the retail level.

Thanks very much for your consideration of House Bill 6299. Please contact Attorney Robert Shea (860-989-5567) or Attorney Christopher Stone (860-214-0503).

OFFICE OF FISCAL ANALYSIS

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sSB-1256

AN ACT CONCERNING THE DEFINITION OF "CHAIN STORE" FOR PURPOSES OF
CERTAIN CIGARETTE TAX STATUTES.

OFA Fiscal Note***State Impact:***

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Revenue Services	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None***Explanation***

The bill has no fiscal impact because it is not anticipated to alter the revenue generated from taxes imposed on cigarettes.